

No 1069 of 95

Special Civil Application

No 4285 of 95

For Approval and Signature:

MR. JUSTICE M.S. SHAH

1. Whether reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution

[illegible]

The appellant is a conductor who was dismissed from service on the charge of having collected the fare and not issuing tickets to several passengers and misappropriating the amount of the fare. The Labour Court has come to the conclusion that the charge is established and the punishment awarded is proper. The learned Single Judge has confirmed the same and dismissed the petition. In the appeal, the learned Counsel for the appellant has submitted that the appellant should have been considered for reinstatement in some alternative post not involving handling of money. In support of his submission reliance was placed on the judgment in the case of GUJARAT STATE ROAD TRANSPORT CORPORATION VS. JAMNADAS BECHARBHAI, 1982(2)

G.L.R.557. In that case the Labour Court had directed reinstatement in favour of to the defaulting conductor inspite of its finding of misappropriation and collection of fare and the award was challenged by the GSRTC. In that context the High Court held that the Labour Court was not justified in reinstating the conductor who had collected the fare, pocketted the same and robbed the National Exchequer in the same post where he could re-indulge in the same weakness at public cost, and therefore, the matter was remanded to the Labour Court for reconsideration and fresh decision and both sides were given opportunity to produce material on the question of substituting some other penalty. In the present case, the Labour Court has found that the dismissal was justified in a case of dishonest misappropriation of Corporation's money and in the background of previous defaults. To such a person if no other alternative post is given, it cannot be said that the Labour Court has committed any illegality. Hence, dismissed.

sf-ram

For correction pl.see original